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# Matthew Hale

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## Trial of the Witches 1664

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At the Assize held before Hale on 10th March 1664 at Bury St Edmunds, Suffolk, Rose Cullender and Amy Duny, widows, both of Lowestoft, were indicted for bewitching Elizabeth and Anne Durent, Jane Bocking, Susan Chandler, William Durent, Elizabeth and Deborah Pacy.<sup>1</sup> Rigg in the *Dictionary of National Biography* refers to Amy Drury and Campbell to Amy Duny. Drury is the spelling used in the report in *6 State Trials* and Duny is the spelling used in a book published in 1683, *A short treatise touching Sheriff's Accompts, together with a report of the trial of the witches at Bury St Edmunds*, said to have been written by Hale's marshal. It is this version which is preferred.

The report on the trial starts dramatically.

Three of the parties above named, viz. Anne Durent, Susan Chandler and Elizabeth Pacy were brought to Bury to the Assizes and were in reasonable good condition; but that morning they came into the Hall to give instructions for the drawing of their bills of indictment, and the three persons fell into strange and violent fits, shrieking out in a most sad manner, so that they could not in any wise give any instructions in the court who were the cause of their distemper. And although they did after some certain space recover out of their fits, yet they were every one of them struck dumb, so that none of them could speak neither at that time, nor during the Assizes until the conviction of the supposed witches.

Dorothy Durent, the mother of William Durent, said in evidence that on or about 10th March she had to go away from home and had nobody to look after her child, William, who was not yet weaned. She asked Amy Duny to look after the baby in her absence and promised her a penny for her services. She gave firm instructions to Amy Duny not to suckle the child. The judge interposed to ask her why she had done this as Amy Duny was too old to suckle a child. Dorothy Durent replied that Amy Duny had for some years past had the reputation of being a witch, and

it was for this reason that she gave the caution. Also the report adds: "That it was customary with old women, that if they did look after a suckling child, and nothing would please it but the breast, they did use to please the child to give it the breast, and it did please the child, but it sucked nothing but wind, which did the child hurt." On her return Amy Dunny told her that she had suckled the child despite the request not to, Dorothy was angry with her and there was a violent quarrel. Continuing her evidence Dorothy said that that very night William became ill with fits of swooning which continued for several weeks. Dorothy was so concerned about the child's health that she consulted a Dr Jacob of Yarmouth, who had a reputation in this field. He advised her to hang up the child's blanket in the chimney corner all day and that when she came to wrap up the child in the blanket at night she was not to be afraid if she found anything in the blanket but to throw it in the fire. Dorothy did as she was told and when she came to take down the blanket at night a great toad fell out of it which ran up and down the hearth. There was only a youth in the house with Dorothy at the time and he caught it with some tongs and put it in the fire. The report says "as soon as it was in the fire it made a great and horrible noise, and after a space there was a flashing in the fire like gunpowder, making a noise like the discharge of a pistol, and thereupon the toad was no more seen nor heard". The judge enquired whether after the noise and flashing were not the remains of the toad to be seen in the fire, but Dorothy replied that there was nothing to be seen.

Dorothy then continues with some hearsay evidence that the next day a young woman, a relative of Amy's, went to see Amy and told Dorothy that she found Amy badly burned on her face, legs and thighs. Amy blamed Dorothy for her condition and said that she would live to see some of her children dead, and herself on crutches. Dorothy continued that after the burning of the toad William recovered, but that about 6th March her daughter Elizabeth aged about 10 years had similar fits and during her illness complained about Amy. Dorothy went to an apothecary for something for her child and on her return found Amy in the house, and when questioned Amy said that she had come to see the child to give her some water. Dorothy became very angry with Amy and turned her out of the house. Amy in going said, "You need not be so angry for your child will not live long." This was on Saturday. On the following Monday Elizabeth died and Dorothy blamed Amy for the death by her witchcraft. Not long after the child's death Dorothy became lame in both legs and had to use crutches. The judge asked whether at the time of her lameness

there had been any stoppage of menstruation but she replied not.

Samuel Pacy gave evidence about his two children, Elizabeth aged 11 years and Deborah Pacy aged 9 years. He was a merchant from Lowestoft and proved a good witness, giving his evidence well without undue emphasis. On Thursday 10th October 1664 his younger daughter Deborah suddenly became lame so that she could not stand and she remained in this condition until 17th October. On that day, as the weather was mild and sunny, she asked to be taken to the eastern side of the house so that she could sit on a bank overlooking the sea. Whilst she was there Amy Duny came to the house to buy some herrings but she was refused and went away in a bad humour. She came back again on two further occasions but received the same reply and went away grumbling. Nobody heard exactly what she said, but at that moment Deborah was taken with violent fits and pain in her stomach "shrieking out in a most dreadful manner like unto a whelp and not like a sensible creature". She continued with these fits until 30th October. The father consulted Dr Feaver but the doctor failed to diagnose the cause of these fits. The father said that the child cried out that Amy Duny was the cause of her illness and was frightened by apparitions of her. He, therefore, charged her with being a witch and had her put in the stocks on 28th October. Examined in the stocks Amy said, "Mr Pacy makes a great stir about his child, but let him stay until he hath done as much by his children as I have done by mine." Being further questioned about what she had done to her children she answered, "That she had been fain to open her child's mouth with a tap to give it victuals." Within two days of Amy saying this the eldest daughter Elizabeth had such a bad fit that they could not open her mouth to feed her without giving her a tap. The same thing happened to Deborah and she had to be given a tap. Both children in their delusions referred to Amy and also Rose Cullender.

The fits were various: sometimes the children would be lame on one side of the body and sometimes on the other; sometimes there was a soreness over their whole bodies so that they could not endure anyone touching them; at other times they could use their limbs but lost their hearing; at other times they lost their sight or speech; on one occasion they lost their speech for eight days. At other times they would fall into a swoon and upon recovering their speech would have violent coughing, bringing up much phlegm and bent pins and a two-penny nail. The father stated that there were forty pins, the two-penny nail had a very broad rim and that he was himself present when some of the

pins had been vomited up. A pin would come up after every fit and there were often as many as five fits in a day. The father continued that the children remained in this state for about two months and when, during their intervals of lucidity he got them to read some passages from the New Testament, he observed that they could read until they came to the words Jesus or Christ but as soon as they did so they fell into another fit. But when they came to the name of Satan, or the devil they would clap their hands on the book, crying out, "This bites, but makes me speak right well." The children also said that Amy Duny and Rose Cullender would appear before them, shaking their fists at them and threaten them that if they told what they had seen they would be tormented more than ever. The father was at his wits end to know what to do and eventually decided to send the children to Yarmouth to stay with his sister, Margaret Arnold, in the hope that the change of scene and air would do them good.

Margaret Arnold was the next witness and she said that the children came to her on 30th November. Her brother had explained the position and said he thought that the children were bewitched but she did not believe him. She thought the children had been up to tricks and had put in the pins themselves. She therefore took all the pins out of their clothes and sewed them up instead. She found she was mistaken because the children had vomited at least thirty pins in her presence and had had very violent fits. The children would in their fits cry out against Amy Duny and Rose Cullender, saying that they could see them, and were threatened by them that they would be tormented ten times as much if they said anything. Sometimes only the children would see things running up and down the house looking like mice, and one of them caught one with the tongs and threw it on the fire where it screeched out like a rat. On another occasion Deborah went out of doors to get some fresh air and a bee flew into her face; she rushed back into the house and fell into a fit; after much pain she vomited a two-penny nail with a broad head and when she came out of the fit she told her aunt that the bee had forced the nail into her mouth. Once Elizabeth was sitting by the fire when she started up and said that she saw a mouse, and crept under the table looking for it; at length she put something into her apron saying she had caught it; immediately she ran to the fire and threw it in, and there was a flashing like gunpowder, but the aunt saw nothing in the child's hand.

Deborah had complained that Amy had been with her in her fits and had tempted her to drown herself and to cut her throat.

Both children complained in their fits of Amy and Rose saying, "Why do not you come yourselves, but send your imps to torment us?"

With regard to Anne Durent, her father, Edmund Durent, gave evidence that he lived in Lowestoft and that about the end of November Rose Cullender came to his house to buy herrings from his wife. His wife refused to sell her any and she went away very discontented. On 1st December his daughter Anne fell ill with serious stomach pains and swooning fits, and after her recovery said that she had seen Rose, who had threatened to torment her. She vomited pins which were produced to the court. Edmund Durent's evidence was confirmed by one Ann Baldwin.

Jane Bocking was so weak that she could not be brought to the Assizes and evidence was given by her mother, Diana Bocking who also lived in Lowestoft. She said that Jane suffered from swooning fits but had been better of late. Upon the 1st February she had a recurrence of the fits with great pain in her stomach. When her fits were on her she would spread out her arms with her hands open and appear as if she was catching something and would close her hands. When her hands were forced open crooked pins would be found but nobody knew how they got there. On another occasion Jane appeared to be talking to somebody else in the room although there was nobody else there. She would frequently complain of Amy Duny and Rose Cullender standing at the end of the bed. Later on she became dumb and could not speak, even in her lucid intervals when she had no fit; this lasted for some days and at last her speech returned and she asked her mother to give her food. When she was asked why she could not speak for all this time she replied that Amy Duny would not permit her to speak.

Susan Chandler was present in court when her mother Mary Chandler gave evidence. She said that after Mr Pacy's children had been bewitched Amy Duny and Rose Cullender had been brought before Sir Edmund Bacon Bt, one of the magistrates who had given the order for the two women to be searched. Mary Chandler with five other women were appointed to carry out the search. They went to Rose Cullender's house and asked her whether she would agree to be searched. She did not object and she was stripped of everything starting from the head downwards. At the lower part of the stomach they found a tumour about an inch long and Rose said that this was a strain caused by carrying water. Upon making a further search three more tumours were found smaller than the former. Mary Chandler continued that her daughter aged 18 years was then in service in Lowestoft

and that on her rising early one morning to wash herself Rose Cullender appeared to her and took her by the hand. Susan was frightened and went to find her mother who was living in the same town, and told her what had happened. Her fear brought on a stomach ache and that night she had hysterics crying out against Rose Cullender, saying that Rose was coming to her bed for her. She suffered from fits in the same way as the others, vomited crooked pins, was stricken with blindness and at another time was dumb.

Expert evidence was given by Dr Browne of Norwich, later Sir Thomas Browne the author of *Religio Medici*, who gave it as his opinion that the children were clearly bewitched and that in Denmark there had been recently an outbreak of witchcraft when the victims had been affected in the same way, vomiting crooked pins and the like. It was his opinion "That the devil in such cases did work upon the bodies of men and women upon a natural foundation (that is) to stir up and excite such humours superabounding in their bodies to a great excess, whereby he did in an extraordinary manner affect them with such distempers as their bodies were most subject to, as particularly appeared in these children; for he conceived that their swoonings were natural, and nothing else but that they call the mother, but only heightened to a great excess by the subtlety of the devil co-operating with the malice of those which we term witches, at whose instance he doeth these villanies."

As well as the evidence certain experiments were tried with the children. Different people were brought to touch them and when they were in their fits with clenched fists nobody could force them open, but when Rose Cullender touched them they would suddenly strike out and open their hands; this happened even when the children were blindfolded with their own aprons. To test this Hale asked Lord Cornwallis, Sir Edmund Bacon, Mr Serjeant Keeling and some other gentlemen to go with one of the children who was in her fit to another part of the hall and sent for Amy Duny. The child was blindfolded and was touched by some other person not Amy Duny and immediately opened her hands. "Whereupon the gentlemen returned openly protesting that they did believe the whole transaction of this business was a mere imposture."

One or two other witnesses were called to give their experiences with Rose Cullender and Amy Duny. John Soam, a yeoman of standing said that not long ago at harvest time he had three carts bringing home the harvest and as one of the carts was driven to the fields to load the harvest it damaged one of the



windows of Rose Cullender's house. She came out in a great rage and threatened him. Although there were no difficulties with the other two carts the one that had done the damage overturned two or three times that day, and stuck in a gateway and could not be moved. As a result they had to cut down the gate post to allow the cart through. When they got near the unloading point the cart could not be drawn up to it but had to be unloaded at a distance and the men found great difficulty in unloading. Others who came to help them found that their noses started bleeding with the effort. They eventually had to give up and left the unloading until the next morning when it was quite easy.

Robert Sherringham gave evidence of a similar nature that about two years ago passing along the street where Rose Cullender lived his cart damaged her house and Rose came out and threatened him that his horses would suffer for it. All the four horses died within a short period, and he had trouble with his other cattle; as soon as his sows had a litter the piglets would leap and caper and then fall down and die. He was himself afflicted with lameness for some days and also plagued with enormous lice which he could only get rid of by burning both of his suits of clothes.

The additional evidence against Amy Duny was even more remote. Richard Spencer deposed that about 1st September last he had heard Amy say in his house that the devil would not let her rest unless she was revenged on the wife of Cornelius Sandeswell. Amy Sandeswell said that about seven or eight years previously, having bought some geese, she met Amy on the way home. Amy said that if Mrs Sandeswell did not fetch her geese home they would all be destroyed. This in fact happened. Later on Mrs Sandeswell had become the tenant of a house belonging to her husband and had warned her that the chimney would fall down. She did not take much notice as the chimney was new, but shortly afterwards the chimney did in fact fall down. Finally, her brother was a fisherman and she ordered a firkin of fish from him and arranged with a boatman to bring the fish ashore with certain other articles. She asked Amy to go with her to help carry the fish, but she refused. Mrs Sandeswell therefore went to the boatman alone and he told her that nothing he could do could prevent the firkin of fish from falling into the sea and he thought it had gone to the devil. Being questioned, the boatman said that none of the other articles in the boat had behaved in this way.

The prisoners then were asked whether they had anything to say for themselves, but they had nothing material to say. The judge in summing up said that he would not repeat the evidence lest he should misinterpret it either on one side or the other.



They should ask themselves two questions: Firstly whether or no those children were bewitched? Secondly whether the prisoners at the bar were guilty of it? That there were such creatures as witches he made no doubt at all; for first the scriptures had affirmed so much. Secondly the wisdom of all nations had provided laws against such persons which is an argument of their confidence of such a crime. And such hath been the judgment of this kingdom as appears by the Act of Parliament which hath provided punishments proportionable to the quality of the offence. And he desired them strictly to observe their evidence and desired the great God of heaven to direct their hearts to this weighty thing they had in hand. For to condemn the innocent and to let the guilty go were both an abomination to the Lord.

The jury retired and returned after about half an hour, bringing in a verdict of guilty on the thirteen charges upon which they had been indicted.

As soon as Amy Duny had been found guilty Dorothy Durent, William's mother, was restored to the use of her limbs and went home without using her crutches. The jury brought in their verdict on Tuesday 13th March 1664 in the afternoon, and the next morning the children with their parents went to the judge's lodgings. All of them spoke perfectly and were in good health except Susan Chandler, who was very thin and wan. Mr Pacy told the judge that less than half an hour after the conviction they were all restored to health and had a good night's rest, except Susan Chandler who continued to have stomach pains.

When the prisoners were brought back to court for sentence Anne Durent was so afraid that she would not go into court but the others went into court and confirmed what had previously been said in evidence. Judgment was then given that the prisoners should be hanged.

The report ends as follows: "They were much urged to confess but would not. That morning we departed for Cambridge, but no reprieve was granted. And they were executed on Monday the 17th of March following, but they confessed nothing."

On his arrival in Cambridge Hale wrote: "A discourse concerning the great mercy of God preserving us from the power and malice of evil angels". This discourse was published in a book entitled *A collection of modern relations of matters of fact concerning-witches-and-witchcraft-upon-the-persons-of-people-to-which-is-prefixed-a-meditation-concerning-the-mercy-of-God-in-preserving-us-from-the-malice-and-power-of-evil-angels-written-by-the-late-Lord-Chief-Justice-Hale-upon-occasion-of-a-trial-of-several-wiches-before-him*, London, 1693.

In the course of his argument he states that there is no doubt that there are such beings as evil spirits as both the Old and New Testaments assure us of it. This is confirmed by our own experience of the power and energy of evil spirits; evil spirits have more strength and energy as they are not encumbered by matter; this malice towards men is greater than their power, but their power is increased by their experience, subtlety, invisibility and knowledge of how to approach man. Man has power to repel evil spirits by means of his will and when the will resists evil spirits can gain no entry. Evil spirits can only inflict bodily damage by the agency of another man or a natural object. Witches are agents to inflict bodily damage on man. Unfortunately the meditation is unfinished and the argument is not taken further.

Hale's friend Richard Baxter wrote a book entitled *The certainty of the world of spirits and consequently of the immortality of souls of the malice and misery of the devils and the damned and of the blessedness of the justified*. The title page indicates that this was written as an addition to many other treatises for the conviction of Sadducees and infidels. The preface is dated 20th July 1691. The book contains a large number of examples of witchcraft but it is of particular interest in the comments on the trial of Rose Cullender and Amy Duny. Baxter remarks that the witches were condemned by Hale "which no man was more backward to do without full evidence". Baxter got the following story from Mr Emlin, a preacher in Dublin, who obtained it from a brother of Elizabeth and Deborah Pacy, then a respectable justice of the peace in Lowestoft. A worthy minister sitting by one of the girls in her fits suddenly felt a force pull one of the hooks from his breeches. Surprised and alarmed he searched for the hook and it was vomited out of her mouth by the girl.<sup>2</sup>

Baxter was well aware of the opportunities for false accusations, but in his view this does not affect his opinion that in truth there are evil spirits; "And I confess very many cheats of pretended possession have been discovered which have made some weak injudicious men think that all are such."<sup>3</sup>

Hale has been severely handled by Ewen in the eighteenth century, Campbell in the nineteenth century and in the twentieth century by such an expert as Wallace Notestein for the part he played in this trial. To form any opinion it is necessary to have some background knowledge of witchcraft in the seventeenth century. There had been laws against witchcraft or sorcery from Anglo-Saxon times,<sup>4</sup> but it is in the sixteenth century that legislation appears on the statute book, and in 1542 an Act was passed against witchcraft sorcery and enchantments.<sup>5</sup> This Act only

remained in force for six years, when it was repealed in the early part of Edward VI's reign.<sup>6</sup> The year 1563 marks the beginning of an active period of prosecutions for witchcraft. In that year an Act was passed that those who "shall use, practise or exercise any witchcraft, enchantment, charm or sorcery whereby any person shall be killed or destroyed, their counsellors and abettors . . . shall suffer pain of death as a felon or felons".<sup>7</sup> Notestein says that two tendencies appear very clearly towards the end of Elizabeth's reign. On the one hand the feeling of the people against witchcraft was growing in intensity while on the other hand the Government appeared to be growing more lenient.<sup>8</sup> Davies thinks that the rise of the feeling against witchcraft in Elizabethan times was the result of the persecution of the Protestants under Mary.<sup>9</sup> Many Protestants found refuge abroad during Mary's reign at such places as Geneva, Basle, Zurich and Strasburg, where the burning of witches were frequent occurrences. Whether this is true or not, the Calvinists certainly excelled all others in their zeal against witchcraft, and the exiled English Protestants would have associated with Calvinists in Switzerland.

According to the statistics taken from the Home Circuit by Ewen the most dangerous period for witches was the decade 1598-1607, being the last six years of the reign of Elizabeth and the first four years of James I.<sup>10</sup> In the minds of the common people witchcraft was associated with Roman Catholicism. Reginald Scot in 1584 said: "One such sort as are said to be witches are women which be commonly old . . . poor and sullen, superstitious and Papists."<sup>11</sup> The Act against witchcraft of 1604 (1 James I cap. 12) was drafted by a committee of the House of Lords with the advice of Sir Edward Anderson, Chief Justice of the Common Pleas; Sir William Perryman, Chief Baron of the Exchequer; Sir Christopher Yelverton and Sir David Williams, Justices of the King's Bench; Serjeant Croke; the Attorney-General, Sir Edward Coke; and Sir John Tindall, an ecclesiastical lawyer.<sup>12</sup> It should be noted that this Act was passed early in the seventeenth century with the advice and approbation of judges and lawyers of the highest repute, including the greatest lawyer of his time, Sir Edward Coke. As late as 1604 witchcraft was taken very seriously by Parliament and lawyers of the day and new legislation on the subject was passed.

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The Act was in wider terms than any previously passed and was directed against any person who shall

use practise or exercise any invocation or conjuration of any evil and wicked spirits or shall consult covenant with entertain employ

feed or reward any evil and wicked spirit to or for any intent or purpose; or take up any dead man, woman or child out of his, her or their grave, or any other place where the dead body resteth, or the skin, bone or any part of any dead person, to be employed or used in any manner of witchcraft, sorcery, charm, or enchantment; or shall use, practise or exercise any witchcraft, enchantment, charm, or sorcery whereby any person shall be killed or destroyed, wasted, consumed, pined or lamed in his or her body or any part thereof; and every such offender or offenders, their aiders, abettors and counsellors . . . shall suffer pain of death as felon or felons, and shall lose the privilege and benefit of clergy and sanctuary.<sup>13</sup>

Under previous statutes it had not been possible to put a witch to death unless some death could be laid to his or her charge, but under the Act of 1604 it was only necessary to prove that the witch made use of evil spirits and some bodily injury had resulted. Of thirty-seven cases in the reign of James I where witches were sentenced to death seventeen were on indictments for witchcraft which had not caused death, and in the other twenty cases the accused were charged with murder.<sup>14</sup> The statute of 1604 may well have been one of the reasons for the increase of witch trials immediately following that date.

There is no doubt that James I was deeply interested in witchcraft and in 1597 published his *Daemonologie*, a defence of the belief in witchcraft resulting from two attacks on such belief by Scot and a German physician by the name of Wierus.<sup>15</sup> This book was influential in its time and when James I came to the throne would receive added weight as the opinion of the monarch. To prosecute witches would win the King's approval and officials and judges would be prompted to greater efforts to stamp out witchcraft.

James himself uncovered several miscarriages of justice, and after 1617 the number of witch trials fell. The worst case was that of the 'Boy of Bilston' in 1616. A boy of 12 had fits which were said to have been caused by several women whom he accused of being witches. Nine women were hanged and six more arrested. James on his way north stopped at Leicester and caused the boy to be examined. The fraud was discovered<sup>16</sup> and the two judges, Mr Justice Winch and Serjeant Crewe, were disgraced.<sup>17</sup>

The attitude of Charles I towards witchcraft resembled that of James I during the latter part of his reign. The only notable witch trial was the trial of Lancashire witches in 1633, which was an outcome of the trial of the Lancaster witches in 1612. Prosecutions for witchcraft increased during the period of the Commonwealth, rising to a peak in the year 1645, when the notorious witchfinder

Matthew Hopkins was most active. He was an attorney at Ipswich and it is probable that witchfinding was good business and a method of extending his practice. He was not content with remaining in his own county of Suffolk but extended his activities to Norfolk, Cambridgeshire, Northamptonshire, Huntingdonshire and Bedfordshire. He accused so many people of witchcraft that he stirred up opposition, but fortunately he died of consumption some time in 1647.<sup>18</sup>

During the period of the Commonwealth executions were numerous from 1649–53, but from 1653–9 there was a rapid falling off both in executions and accusations.<sup>19</sup> Pollock and Maitland considered the period of the Commonwealth “as the worst days for witches in England”,<sup>20</sup> but this opinion was formed before the researches of Ewen were undertaken. Ewen states that so far as he can estimate from existing records there were more trials in the forty-two years of the reign of Elizabeth than during the entire seventeenth century.<sup>21</sup> Notestein takes the view that the Commonwealth government was not greatly interested in witchcraft but inclined towards leniency.<sup>22</sup> Certainly Cromwell’s government tried to mitigate the severity of the criminal law. There appears to have been a steady decline in the number of executions for witchcraft from Elizabethan times with the exception of the period around 1645 when Matthew Hopkins was active.

After the Restoration witches were still being accused and brought to trial throughout the kingdom. On 3rd September 1660 Joan Neville was found guilty of murder by witchcraft by Sir Orlando Bridgeman at Kingston-upon-Thames Assizes, although it is doubtful whether she was executed.<sup>23</sup> The last execution in England traced by Ewen was that of Alice Molland who was tried at the Exeter Lent Assizes in 1684 before Sir Francis North, Chief Justice of the Common Pleas, and Sir Thomas Raymond, a judge of the King’s Bench.<sup>24</sup> There is no doubt that Sir John Holt, Chief Justice of the King’s Bench from 1689–1710 did more than any other judge to end the prosecution of witches, and he secured the acquittal of witches at no less than eleven trials.<sup>25</sup> He had a reputation for detecting false pretences of every kind and his talents were used to good effect in pointing out the various discrepancies in the evidence to the jury.

There were special rules for the examination of witches, for clearly the evidence was different from that required in the case of other suspected felons. Michael Dalton, a Master in Chancery, in his book *The County Justice*, first printed in 1618, had a section on the “Discovery of Witches”<sup>26</sup> and the basic principles and ideas are as follows:

1. Witches have a familiar spirit which appears to them sometimes in the form of a man or woman or an animal such as a toad.
2. The spirit has some place on the body such as a teat where it sucks.
3. Witches often have models in clay or wax of the person they are bewitching found in their house or buried by them.
4. Witches are given to cursing and threatening revenge which subsequently occurs.
5. Their implicit confession such as "I have not hurt you as yet" or "You should have let me alone."
6. Frequent enquiries about a sick person especially when forbidden to enter the house.
7. Appearance to a sick person in his fits.
8. The sick person in his fits naming the suspected witch.
9. The common report of their neighbours, especially if the suspected witch is a relative or servant of a convicted witch.
10. Evidence of other witches confessing their own witchcraft and accusing suspected witches of having spirits or marks, having been at their meetings, confessing what harm they have done.
11. If a dead body bleeds on being touched by a witch.
12. The death of the person bewitched.
13. The evidence and confessions of children or servants of witches.
14. The voluntary confession of the witch about what she has done.
15. The stench from a witch's house.
16. Sudden sickness without any apparent cause.
17. Two or more people having identical fits.
18. When a sick person in his fits foretells what the witch or other absent persons are doing or saying.
19. Where sick persons do not remember afterwards what was said in their fits.
20. When a child or weak person has supernatural strength so that strong men are unable to keep him in his bed.
21. When the party vomits up crooked pins, needles, coals, lead, straw, hair or the like.
22. When the party has some misfortune in a dream and this subsequently befalls him.

With this background the part played by Hale in the trial of 1664 can be more easily understood.

Hale would take at face value any references to witches in the Bible. Most references to witches are in the Old Testament. "Thou shalt not suffer a witch to live" (Exodus, Ch. 22, v. 18). "A man also or a woman that hath a familiar spirit, or that is a wizard, shall surely be put to death; they shall stone them with stones" (Leviticus, Ch. 20, v. 27). "There shall not be found among you anyone that useth divination or an observer of times or an enchanter or a witch or a charmer or a consulter with familiar



spirits or a necromancer" (Deuteronomy, Ch. 18, v. 10, 11). In his charges to the jury Hale stated that he had no doubt that there were such creatures as witches as the scriptures affirmed it. To a man such as Hale who believed in the supernatural and the revelations contained in the scriptures this would be irrefutable evidence.

All other nations had laws against witches. This would be regarded as weighty evidence by Hale as he set great store by the accumulated wisdom of mankind.

There had been an Act of Parliament on this subject only sixty years before, drawn up by the advice of eminent lawyers including Sir Edward Coke. How could a judge with Hale's education and background be expected to deny his religion, his experiences and a recent Act of Parliament?

The real gravamen of the charge against Hale is not that he believed in witches but that he did not sum up to the jury against conviction in this particular case in 1664. There was undoubtedly a *prima facie* case of witchcraft against both Amy Dunny and Rose Cullender. In Amy's case there was evidence that the child Elizabeth Durent complained about Amy in her fits; Amy visited the house and was turned out by the angry mother; Amy threatened that the child would not live long and the child died. Deborah Pacy became ill after Amy had gone to the house to buy herrings and had been refused. The child cried out in her fits that Amy and Rose were the cause of her illness and vomited bent pins and nails. The father Samuel Pacy anxious to send the children away for a change of scene sent them to his sister Margaret Arnold who was clearly sceptical and took the pins out of their clothes and sewed them up instead. Anne Durent became ill after Rose Cullender had gone to her father's house to buy herrings and was refused. She said she had seen Rose in her fits and vomited pins. Mary Chandler was instructed by the magistrate to search the two women and she gave evidence of examining Rose and finding a tumour an inch long at the lower part of the stomach. Expert evidence was given by Dr Thomas Browne of Norwich, who gave as his opinion that the children were clearly bewitched. On the other hand an experiment was made at Hale's request when a child reacted to the touch of some other person in the same way as if that person had been a witch. The gentlemen who conducted the experiment clearly thought the whole accusation was a fraud and said so.

A summing up is a recapitulation of the evidence by the judge drawing the attention of the jury to the salient points. Hale said that he would not repeat the evidence lest he should misinterpret.

